

Serial No. 10/769,223

Atty Dkt No. 706484US1

REMARKS:

Applicants have carefully reviewed the Examiner's comments in the Office Action and have prepared the following response.

Claims 1-6 and 8-12 remain in the application. Claim 7 was canceled by a previous amendment, and claims 5 and 10 were withdrawn. Initially, Applicants express appreciation that the Examiner has allowed claims 2-4, 6, 8, 9, 11 and 12. By this paper, claims 2-4, 6, 8, 9, 11 and 12 stand allowed, and claim 1 has been amended and is now believed to be in condition for allowance.

Turning to the issues raised in the Office Action, claim 1 stands rejected under 35 U.S.C. § 102(e) as anticipated by Kresse et al. (U.S. Patent No. 6,726,596, hereinafter "Kresse"). Applicants respectfully traverse this rejection and request reconsideration in view of the following remarks.

Claim 1, as amended, provides a method for controlling a vehicle powertrain during a transmission shift comprising "determining a predetermined RPM by subtracting a typical idle speed from an increased idle speed." No reference cited by the Examiner teaches this limitation. Specifically, Kresse fails to teach a step of determining a predetermined RPM based on a difference of idle speeds, but rather simply provides an arbitrarily chosen value. According to Kresse, "ES_LMT temporarily limits the engine speed ES to a predetermined value such as 1500 RPM." (Kresse, Col. 4, 1-2) (emphasis added). Applicants' aver that the reference fails to teach every limitation of claim 1, which is therefore believed to be patentable over the prior art.

With respect to the remaining dependent claims, claims 2-5 are allowable as a result of the dependency from allowed claim 6, as indicated by the Examiner; claims 9-12 are allowable as a result of the dependency from allowed claim 8, as indicated by the Examiner.

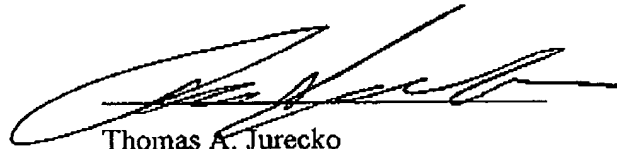
Therefore, the Examiner is asked to enter this amendment as it puts this case in condition for allowance.

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In view of the foregoing amendments and remarks, Applicants submit that the claims are patentable over the prior art and the application is in a condition for allowance. Applicants respectfully request an early notice of allowance. The Examiner is cordially invited to telephone the undersigned for any reason which would help advance the instant application to allowance.

Respectfully submitted,



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